



# House of Representatives

General Assembly

**File No. 180**

February Session, 2006

House Bill No. 5596

*House of Representatives, March 28, 2006*

The Committee on Insurance and Real Estate reported through REP. O'CONNOR of the 35th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

## **AN ACT PROHIBITING INTERNET MISREPRESENTATION OF BUSINESS AFFILIATION.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective from passage*) (a) For the purposes of this  
2 section, unless the context otherwise requires:

3 (1) "Electronic mail message" means a message sent to a unique  
4 destination that consists of a unique user name or mailbox and a  
5 reference to an Internet domain, whether or not displayed, and to  
6 which an electronic mail message can be sent or delivered;

7 (2) "Identifying information" means an individual's piece of  
8 information that can be used to access an individual's financial  
9 accounts or to obtain goods or services and that includes an  
10 individual's Social Security number, operator's license number, bank  
11 account number, credit or debit card number, personal identification  
12 number, automated or electronic signature, unique biometric data, and  
13 account passwords;

14 (3) "Internet" means collectively the myriad of computer and  
15 telecommunications facilities, including equipment and operating  
16 software that comprise the interconnected world-wide network of  
17 networks that employ the transmission control protocol or Internet  
18 protocol or any predecessor or successor protocols to such protocol to  
19 communicate information of all kinds by wire or radio; and

20 (4) "Web page" means a location with respect to the worldwide web  
21 that has a single uniform resource locator or other single location with  
22 respect to the Internet.

23 (b) No person shall, by means of a web page or electronic mail,  
24 electronic mail message or otherwise using the Internet, solicit, request  
25 or take any action to induce another person to provide identifying  
26 information by representing that the person, either directly or by  
27 implication, is an on-line business without the authority or approval of  
28 the on-line business.

29 (c) The Attorney General, or a person who either is engaged in the  
30 business of providing Internet access service to the public or owns a  
31 web page or trademark and who is adversely affected by reason of a  
32 violation of this section, may bring an action against a person who  
33 violates this section to: (1) Enjoin further violations of this section, and  
34 (2) recover the greater of actual damages or five hundred thousand  
35 dollars for each separate violation of this section.

36 (d) In an action under this section, the court may increase a damage  
37 award to an amount equal to not more than three times the amount  
38 otherwise available under this section if the court determines that the  
39 defendant has engaged in a pattern and practice of violating this  
40 section. The Attorney General may also recover reasonable attorney's  
41 fees and costs.

42 (e) For the purposes of this section, multiple violations of this  
43 section resulting from any single action or act shall constitute one  
44 violation.

45       (f) Any person who violates this section shall be fined not more than  
46       five thousand dollars or imprisoned not less than one year nor more  
47       than five years, or both.

This act shall take effect as follows and shall amend the following sections:		
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Section 1	<i>from passage</i>	New section
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**INS**       *Joint Favorable*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

### **OFA Fiscal Note**

#### **State Impact:**

Agency Affected	Fund-Effect	FY 07 \$	FY 08 \$
Judicial Dept.	GF - Revenue Gain	Potential	Potential
Various Criminal Justice Agencies	GF - Cost	Potential	Potential

Note: GF=General Fund

**Municipal Impact:** None

#### **Explanation**

The bill makes it a crime, punishable by a fine of up to \$5,000 and/or five years' imprisonment, for any person to use the Internet or electronic mail messaging to induce another person to provide identifying information by representing that the person is an on-line Internet business, without the authority or approval of such on-line Internet business (electronic mail message phishing). To the extent that offenders are subject to incarceration or probation supervision in the community as a result of the bill, a potential cost to criminal justice agencies exists. On average, it costs the state \$2,150 to supervise an offender on probation in the community as compared to \$35,040 to incarcerate the offender (note that both figures include fringe benefits). There is a potential revenue gain associated with criminal fines.

The bill authorizes the Attorney General to bring a civil action to enforce the provisions of the bill. As this provision is permissive, it is anticipated that any such enforcement measures could be accommodated within budgeted resources.

The bill grants any person who either is engaged in the business of providing Internet access service to the public or owns a web page or trademark and who is adversely affected by reason of a violation of the bill permission to bring a civil action in superior court to recover actual

damages or \$500,000, whichever is greater, for each violation, and provides for the awarding of punitive damages. The number of civil cases resulting from this provision is anticipated to be small relative to the overall caseload of the Judicial Department and therefore could be accommodated within budgeted resources.

***The Out Years******State Impact:***

<b>Agency Affected</b>	<b>Fund-Effect</b>	<b>FY 09 \$</b>	<b>FY 10 \$</b>	<b>FY 11 \$</b>
Judicial Dept.	GF - Revenue Gain	Potential	Potential	Potential
Various Criminal Justice Agencies	GF - Cost	Potential	Potential	Potential

Note: GF=General Fund

***Municipal Impact:*** None

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**OLR Bill Analysis**  
**HB 5596**

***AN ACT PROHIBITING INTERNET MISREPRESENTATION OF  
BUSINESS AFFILIATION.***

**SUMMARY:**

This bill prohibits using the Internet or an e-mail message to solicit or induce another to provide identifying information by pretending to be an on-line Internet business without the business's authorization.

The bill authorizes the attorney general or an Internet access service provider or web page or trademark owner adversely affected by a violation to sue to restrain further violations and to recover damages. The court may award actual damages or \$500,000, whichever is greater, for each violation. It may triple the damage award if it determines that the defendant has engaged in a pattern and practice of violations. The attorney general may recover reasonable attorney's fees and costs.

A violation is punishable by one to five years imprisonment, a fine of up to \$5,000, or both. Multiple violations committed in the course of a single act constitute a single violation.

EFFECTIVE DATE: Upon passage

**DEFINITIONS**

***E-Mail Messages***

The bill defines "e-mail message" as a message sent to a unique destination consisting of a unique user name or mailbox and a reference to an Internet domain, whether or not displayed, to which the message can be sent.

***Identifying Information***

The bill defines “identifying information” as specific details that can be used to access a person’s financial accounts or to obtain goods or services. It can include a Social Security number, driver’s license number, bank account number, credit or debit card number, personal identification number, automated or electronic signature, unique biometric data, or account password.

***Related Bill***

sSB 566 prohibits the same conduct. It permits a court to award the greater of actual damages or \$25,000 for each violation and makes a violation a class D felony. It relieves an Internet service provider from liability when it identifies, removes, or disables access to a web page or on-line location that it believes in good faith is being used to violate the prohibition.

**COMMITTEE ACTION**

Insurance and Real Estate Committee

Joint Favorable

Yea    19    Nay   0    (03/14/2006)